

NEBRASKA ADMINISTRATIVE CODE

Last Issue Date: January 9, 2000

Title 48 - Department of Banking and Finance

Chapter 37 - SALES OF SECURITIES AT FINANCIAL INSTITUTIONS

001 GENERAL.

001.01 This Rule has been promulgated pursuant to authority delegated to the Director in Section 8-1120(3) of the Securities Act of Nebraska ("Act").

001.02 The Department has determined that this Rule is consistent with investor protection and is in the public interest.

001.03 The Director may, on a case-by-case basis, and with prior written notice to the affected persons, require adherence to additional standards or policies, as deemed necessary in the public interest.

001.04 The definitions in 48 NAC 2 shall apply to the provisions of this Rule, unless otherwise specified.

001.05 This Rule applies exclusively to broker-dealer services conducted by broker-dealers on the premises of a financial institution where retail deposits are taken. It does not alter or abrogate a broker-dealer's obligations to comply with other applicable laws, rules, or regulations that may govern the operations of broker-dealers and their agents, including but not limited to, supervisory obligations. These rules do not apply to broker-dealer services provided to non-retail customers.

002 Definitions. For purposes of these rules, the following terms have the meanings indicated:

002.01 "Financial institution" means federal and state-chartered banks, savings and loan associations, savings banks, credit unions, and the service corporations of such institutions located in Nebraska.

002.02 "Networking arrangement" means a contractual or other arrangement between a broker-dealer and a financial institution pursuant to which the broker-dealer conducts broker-dealer services on the premises of such financial institution where retail deposits are taken.

002.03 "Broker-dealer services" means the investment banking or securities business as defined in paragraph (p) of Article I of the By-Laws of the National Association of Securities Dealers, Inc.

003 Standards For Broker-Dealer Conduct. No broker-dealer shall conduct broker-dealer services on the premises of a financial institution where retail deposits are taken unless the broker-dealer complies initially and continuously with the following requirements:

003.01 Wherever practical, broker-dealer services shall be conducted in a physical location distinct from the area in which the financial institution's retail deposits are taken. In those situations where there is insufficient space to allow separate areas, the broker-dealer has a heightened responsibility to distinguish its services from those of the financial institution. In all situations, the broker-dealer shall identify its services in a manner that clearly distinguishes those services from the financial institution's retail deposit-taking activities. The broker-dealer's name shall be clearly displayed in the area in which the broker-dealer conducts its services.

003.02 Networking arrangements shall be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements. Networking arrangements must provide that supervisory personnel of the broker-dealer and representatives of state securities authorities, where authorized by state law, will be permitted access to the financial institution's premises where the broker-dealer conducts broker-dealer services in order to inspect the books and records and other relevant information maintained by the broker-dealer with respect to its broker-dealer services. Management of the broker-dealer shall be responsible for ensuring that the networking arrangement clearly outlines the duties and responsibilities of all parties, including those of financial institution personnel.

003.03 At or prior to the time that a customer's securities brokerage account is opened by a broker-dealer on the premises of a financial institution where retail deposits are taken, the broker-dealer shall:

003.03A Disclose, orally and in writing, that the securities products purchased or sold in a transaction with the broker-dealer:

003.03A1 Are not insured by the Federal Deposit Insurance Corporation ("FDIC") or by the National Credit Union Administration ("NCUA"), as applicable;

003.03A2 Are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and

003.03A3 Are subject to investment risks, including possible loss of the principal invested.

003.03B Make reasonable efforts to obtain from each customer during the account opening process a written acknowledgment of the disclosures required by Section 003.03A1.

003.03C If broker-dealer services include any written or oral representations concerning insurance coverage, other than FDIC or NCUA insurance coverage, as applicable, then clear and accurate written or oral explanations of the coverage must also be provided to the customers when such representations are first made.

004 Communications With The Public

004.01

004.01A All of the broker-dealer's confirmations and account statements must indicate clearly that the broker-dealer services are provided by the broker-dealer.

004.01B Advertisements and sales literature that announce the location of a financial institution where broker-dealer services are provided by the broker-dealer, or that are distributed by the broker-dealer on the premises of a financial institution, must disclose that securities products; are not insured by the FDIC or the NCUA, as applicable; are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and are subject to investment risks, including possible loss of the principal invested. The shorter, logo format described in Section 004.02A may be used to provide these disclosures.

004.01C Recommendations by a broker-dealer concerning non-deposit investment products with a name similar to that of a financial institution must only occur pursuant to policies and procedures reasonably designed to minimize risk of customer confusion.

004.02

004.02A The following shorter, logo format disclosures may be used by a broker-dealer in advertisements and sales literature, including material published, or designed for use, in radio or television broadcasts, Automated Teller Machine ("ATM") screens, billboards, signs, posters and brochures, to comply with the requirements of Section 004.01B, provided that such disclosures are displayed in a conspicuous manner:

004.02A1 Not FDIC Insured or Not NCUA Insured, as applicable

004.02A2 No Financial Institution Guarantee

004.02A3 May Lose Value

004.02B As long as the omission of the disclosures required by Section 004.01B would not cause the advertisement or sales literature to be misleading in light of the context in which the material is presented, such disclosures are not required with respect to messages contained in:

004.02B1 Radio broadcasts of 30 seconds or less;

004.02B2 Electronic signs, including billboard-type signs that are electronic, time, and temperature signs and ticker tape signs, but excluding messages contained in such media as television, on-line computer services, or ATMs; and

004.02B3 Signs, such as banners and posters, when used only as location indicators.

005 Notification Of Termination. The broker-dealer must promptly notify the financial institution if any agent of the broker-dealer who is employed by the financial institution is terminated for cause by the broker-dealer.

006 Conflict with federal regulations. The Director may by order suspend any provision of this Chapter upon a showing that such provision conflicts with any regulation promulgated by a federal regulatory agency or a self-regulatory organization of an industry affected by this Chapter.